

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

Finishing Touch Stain & Lacquer, LLC,)	
)	
Plaintiff,)	COMPLAINT
)	(Jury Trial Requested)
v.)	
)	Civil Action No. _____
Tru-Logistics, Inc. and Therma-Tru Corp.,)	
)	
Defendants.)	

Plaintiff Finishing Touch Stain & Lacquer, LLC (“Finishing Touch”) brings this action for monetary damages and injunctive relief under the patent laws of the United States, 35 U.S.C. §§ 1, et seq., to remedy and stop the past, current, and threatened infringement of U.S. Patent No. 6,979,475 (the “Patent”), a copy of which is attached hereto as Exhibit A.

JURISDICTION AND VENUE

1. This court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1338.

2. Upon information and belief, the defendants have infringed and are continuing to infringe the Patent by unlawfully using the processes claimed in the Patent to manufacture, produce, and/or prepare products that they sell, offer to sell, and/or distribute for sale in this district and division. Moreover, upon information and belief and as further described in this complaint, the defendants are corporations subject to personal jurisdiction in this district. Venue is therefore proper in this district pursuant to 28 U.S.C. §§ 1391(c) and 1400(b).

PARTIES

3. Plaintiff Finishing Touch is a limited liability company organized pursuant to the laws of the State of North Carolina, having its principal place of business at 4125 Sinclair Street, Denver, North Carolina 28037.

4. Defendant Tru-Logistics, Inc. (“Tru-Logistics”) is a corporation organized pursuant to the laws of the State of Delaware, having its principal place of business at 10435 Okanella Street, Houston, Texas 77401.

5. Defendant Therma-Tru Corp. (“Therma-Tru”) is a corporation organized pursuant to the laws of the State of Ohio, having its principal place of business at 1750 Indian Wood Circle, Maumee, Ohio 43537.

6. Upon information and belief, Tru-Logistics is a wholly owned subsidiary of Therma-Tru.

7. Upon information and belief, each of Tru-Logistics and Therma-Tru regularly transacts, solicits, and/or does business in this State, contracts to supply services or things in this State, engages in other persistent courses of conduct, derives substantial revenue from goods used or consumed or services rendered in this State, and/or produces, manufactures or distributes goods with the reasonable expectation that those goods are to be used or consumed in this State and are so used or consumed. Upon further information and belief, each of Tru-Logistics and Therma-Tru has committed a tortious act in whole or in part in this State. Therefore, Tru-Logistics and Therma-Tru are each subject to the jurisdiction of this court.

FACTS

8. The Patent was duly and lawfully issued by the U.S. Patent & Trademark Office on December 27, 2005. At all times since the Patent's issuance, Finishing Touch has been the owner by assignment of all right, title, and interest in and to the Patent.

9. As more fully disclosed in the Patent, the Patent claims methods for staining and finishing a molded article, such as a wood grain fiberglass door, in a way that provides the appearance of a stained and finished wooden article.

10. Upon information and belief, Tru-Logistics and Therma-Tru (collectively, the "Defendants") have unlawfully used and continue to use the processes claimed in the Patent to manufacture, produce, and/or prepare fiberglass doors and related products (the "accused products").

11. Upon information and belief, Defendants' method of finishing and/or applying stain to the accused products infringes the Patent.

12. Upon information and belief, Defendants sell, offer to sell, and/or distribute for sale the accused products to purchasers in this district and division and across the United States.

13. Upon further information and belief, the accused products include fiberglass doors sold by Defendants under the mark Classic-Craft® and Fiber-Classic®, as well as fiberglass doors which Defendants make available to customers within this district and division and throughout the United States through one of its dealers, Lowe's, under the "Benchmark" mark.

COUNT ONE

14. Finishing Touch realleges as if set forth fully herein the foregoing allegations.

15. Upon information and belief, Defendants use one or more processes claimed in the Patent to manufacture, produce, and/or prepare the accused products.

16. Upon information and belief, Defendants have infringed and continue to infringe the Patent.

17. Upon information and belief, Defendants have actively induced and contributed to the infringement by others of the Patent, and continue to actively induce and contribute to the infringement of others of the Patent.

18. To the extent that Defendants had knowledge of the Patent and continued or continue their infringing conduct, their conduct is willful and entitles Finishing Touch to enhanced damages.

19. Finishing Touch has suffered and will continue to suffer irreparable harm and damages as a result of Defendants' conduct.

PRAYER FOR RELIEF

WHEREFORE, Finishing Touch seeks the following relief:

a. A preliminary and thereafter permanent injunction, restraining and enjoining Defendants and those under Defendants' direction and/or control from infringing, actively inducing infringement of or contributing to the infringement of the Patent;

b. Damages arising from Defendants' infringement, including, but not limited to, monetary damages suffered by Finishing Touch as a result of Defendants' unlawful conduct, prejudgment and postjudgment interest, costs, reasonable attorney fees, and increased damages as provided for by 35 U.S.C. §§ 284 and 285; and

c. Any such further relief as the court deems necessary and proper.

JURY TRIAL DEMANDED

Finishing Touch requests a jury trial on all issues triable by a jury in this action.

Respectfully submitted this 21st day of March, 2007.

s/ Thomas E. Vanderbloemen

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